

TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the August 28, 2015 Regular Council Meeting

Call to Order and Flag Salute at 3:30 p.m. by Vice Mayor Mais

Council in Attendance: Diane Tingle, Bill Weistling, Gardner Bunting, Roy Williams, Richard Mais, Julie Lee

Absent: Gene Langan - excused

Staff in Attendance: Town Clerk Poole, Building Official Schuchman, Public Works Supervisor Reed, Police Chief Boyden, Town Manager Burke, Beach Patrol Captain Ferry, Town Solicitor Mary Schrider-Fox

PRESIDENT'S REPORT

- **Vice Mayor Mais** presented new Council for 2015: Mayor Gene Langan, Vice Mayor Richard Mais, Treasurer Gardner Bunting, Secretary Diane Tingle, Council Member William Weistling, Council Member Roy Williams and Council Member Julie Lee

TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- **Homeowner Flood Insurance Affordability Act** – Kevin Thomas, Lyons Insurance presented an overview of the National Flood Insurance Program coverage changes. The information in this summary provided a general overview of key policy coverage components of a flood insurance policy. It did not encompass all the terms, conditions, limitations and exclusions that comprise the insurance contracts. The provisions of these insurance contracts, rather than the summary, will in every case determine the applicable coverage. Additional information can be found at FloodSmart.gov. (presentation attached).
- **Employee Recognition** – Town Manager Burke presented Captain Tim Ferry with his 10 year anniversary certificate and a \$50.00 check. State Representative Ron Gray also presented two tributes, one from the State Senate and one from the House of Representative in recognition to Captain Ferry for 40 years of life saving on the Delaware Beaches.
- **Community Holiday Event (request)** – Sue Clark and Barbara McCoy asked Council to support a Town sponsored event for a holiday gathering for residents and guests. The event “Sea the Holidays” would be on December 11th, 2015 from 5:30 p.m. – 8:30 p.m. with a tree lighting, holiday carols and a potluck get together in the Town Hall afterwards. The members are: Sue Clark, Lynn Andrews, Vicki Carmean, Carol McCloud, Marlene Quinn, Jean Nedwick, Nancy Kushela and Barbara McCoy. They asked Council to approve this town sponsored event with a donation of \$300.00 to help with expenses.

Motion – Motion made for Council to approve the holiday event on December 11th with a \$300.00 donation and a waiver of the special events fees for the event – Council Member Weistling

Second – Council Member Tingle

Discussion – none

Vote – (6-0)

- **Town Hall Building Use Policy** – Town Manager Burke stated that the Town’s Current Building Use Policy needed some updating for several reasons / issues. If Council approves the draft it will go into effect on January 1, 2016. Draft below.

TOWN OF FENWICK ISLAND, DELAWARE
VILLALON HALL RESERVATION POLICY

Villalon Hall (Council meeting room) located in the Fenwick Island Town Hall is available for use by Fenwick Island property owners and organizations that benefit the public interests of the Town of Fenwick Island.

Town management will administer the reservation policy as not to schedule meetings that coincide with Town of Fenwick Island business. The Town Manager or designee may approve or reject the reservation request. In specific circumstances, the Town Manager or designee may request Council guidance before accepting or rejecting a reservation request. A rejection decision made by the Town Manager or designee may be appealed at the next regularly scheduled Council meeting. Council reserves the right to uphold or reverse a decision. Such guidance may be provided by a simple majority of Council at the first regularly scheduled meeting after the request is made.

Definitions

- A. Fenwick Island property owner shall be as defined in the Town of Fenwick Island Charter
- B. Designee shall be defined as the Building Official, Town Clerk or Administrative Clerk.
- C. Public Service Groups: Tax-exempt nonprofit organizations, as defined by the federal government and the State of Delaware that have as their primary objective serving the public interest of residents of the Town of Fenwick Island.
- D. Government Organizations: Local, County, State and federal government organizations that have legal representations and responsibilities with activities within the Town of Fenwick Island.
- E. Commercial Organizations: Associations or groups that represent or include “for profit” businesses located in the Town of Fenwick Island.
- F. Local Businesses: Individual commercial entities that lease or own commercial space, and have a Town issued license to conduct business in the Town of Fenwick Island.
- G. Political Parties: Groups of like-minded individuals who join together to encourage the election of specific individuals to federal, State, County and municipal offices.
- H. Permitted Activities: Town sponsored social events, public service groups meetings, government organization meetings, organizational social events and gatherings, and meetings of clubs, associations and Chambers of Commerce.
 - a. If an organization or group wishes to undertake an activity not listed, special permission may be requested from and granted by a simple majority pf Council at its next regularly scheduled Council meeting.
- I. Denied Activities: Any form of commercial activity (buying or selling or trading for profit), political uses (rallies, fund raising or endorsement of individual candidates), religious meetings or activities.

- J. Those that may reserve Villalon Hall for permitted activities (G and above) are limited to employees of the Town and those defined in A through E above.

Liabilities

The Town is not liable for personal injury or damage to personal property that occurs while the facilities are being used under this policy. The Town will not guarantee that an employee will be available to assist with any problem or situation that arises. Please read the Villalon Hall Reservation Request Form for additional liability and indemnification information. In addition, the applicant must agree to abide by the fire marshal's capacity limitation and not permit tobacco products in the building.

Procedures

All requests for reservations must be made in writing to the Town Manager or designee who will maintain the master reservation calendar. If the requested reservation time is available, the applicant must complete the Villalon Hall Request Reservation Form acknowledging the terms, conditions, liabilities and responsibilities of usage. The completed form and payment shall be given to the Town Manager or designee before the reservation is entered on the master calendar. The Town Council reserves the right to cancel the reservation for the needs of the Town. All funds will be refunded if a meeting is cancelled by Council or the Town Manager or designee.

Public access to Town Hall offices will be restricted. The public will be permitted to enter and exit Villalon Hall through the front door of Town Hall.

Fee Schedule

- Public Service Groups and Government Organizations are exempt from the daily \$40 fee and \$40 deposit as long as the Hall is left in good condition. There will be an annual reservation fee for unlimited use of \$50.00 (non-profit) to use Villalon Hall from January 1 through December 31st. Payment can be made at any time throughout the calendar year.
- All other users will be required to pay a \$40 fee and \$40 deposit with the completed Villalon Hall Request Reservation Form. The \$40 deposit will be returned after the meeting if the building is left in good order. If the building is not left in good order then the deposit will not be returned.
- Failure to adhere to this policy will result in suspension of the privilege to use the Hall or any other Town facility in the future.

Misc.

Alcoholic beverages may be served but shall not be sold. All individual consuming alcoholic beverages must be over 21 years of age. Any necessary permits are the responsibility of the applicant. Sound systems and electronic devices may be installed if done so without damaging the facility. The Town Manager in consultation with the President of Council shall have the final determination of equipment that will be permitted in Villalon Hall.

Motion – Motion made to accept the new Town Building Use Policy present by Town Manager Burke and establish a \$50.00 annual fee for non-profits for the use of the facility.

Second – Council Member Bunting

Discussion – Council Member Tingle asked, “Who uses the building?” and “Who is tax exempt?”. Town Manager Burke stated the primary groups are: AA, Lions Club, FISH, Barefoot Gardner's and a

local athletic organization. Year to year other organizations that are for profit and non-profit have used the facility. If you are for profit you pay the fee, \$40.00 / \$40.00 deposit. Council Member Weistling asked Town Manager Burke what he thought the fee should be. His response was between \$25 - \$100.00. This will help offset the carpet cleaning costs which average about \$400.00 per cleaning.

Vote – (6-0)

- **Barefoot Gardner Club (request)** – Carolyn A McCloud – Town Manager Burke stated with the above motion passing, there is no request needed.

APPROVAL OF MINUTES

Motion – Motion made to approve the Minutes of July 24, 2015, with corrections - Council Member Weistling

Second – Council Member Bunting

Discussion – none

Vote – (6-0)

TREASURER'S REPORT

Council Member Bunting reported: The monthly report is a summary of all account balances through **May 31, 2015** and other pertinent financial information since the prior month's Town Council meeting. Sombar Associates have been contacted for the annual audit.

Reserve Balance

- \$2,417,623.74

FY 2015 Operating Budget

- 103.01% of Budgeted Income
- 95.09% of Budgeted Expenses

Realty Transfer Tax (1.5% local tax)

- \$382,995

Outstanding Taxes and Late Fees (FY14 and FY15)

- \$ 3,145.20

Revenue Highlights

- \$16.9k over real estate property tax budget
- \$12.6k over rental receipt tax budget
- \$6k over parking violations

Municipal Street Aid Report

- No report/No expenditures

Dedicated Street Fund

- No report/No expenditures

Parks & Recreation

- Two new park benches were purchased for \$1,590 within the Fenwick Island Community Park

Motion – Motion made to accept the Treasurer’s Report as read – Council Member Tingle

Second – Council Member Weistling

Discussion – none

Report accepted

TOWN MANAGER’S REPORT

Projects / Updates

- The FY 2016 Financial Plan was adopted and posted on the website. Social media was updated accordingly.
- 2015 Request for Proposals (RFPs) and Bids
 - The 2015 solid Waste and Recycling Collection Bid was awarded to Waste Industries of DE LLC. Collection service will commence on September 1, 2015.
- Town of Fenwick Island Newsletter (will be mailed no later than September 15).
- F.I. Community Park phase 1 improvements were completed.
- Town management is coordinating town staff with FY 16 capital improvement plan purchases.
- Waste Industries will commence solid waste and recycling collection service on September 1, 2015. Council awarded Waste Industries a 3-year contract.
- The Town management contacted Sombar and Associates about commencing the FY 2015 Audit.
- 124 parking permits sold in August for \$2,960. The Town has collected approximately \$2,000 more in permit income than in FY 2014.

Grant Applications (approved and pending)

- **2014 DNREC Surface Water Matching Planning Grant (approved for \$22,000, 50% Town of Fenwick match)**
 - AECOM is in the process of soliciting bids for the project.
- **2015 DNREC Recycling Grant (approved)**
 - Approved by DNREC. Town management executed the Contract and will commence purchasing after October 1.
- **2015 DNREC DTF Grant (pending)**
 - Town management is drafting the grant application for F.I. Community Park phase 2 improvements due no later than Sept. 24.
- **2015 DNREC Surface Water Matching Planning Grant (approved for \$13,000, 50% Town of Fenwick Island match)**
 - AECOM is in the process of soliciting bids for the project.

- **2016 DNREC Surface Water matching Planning Grant (pending, 50% town of Fenwick Island match)**
 - AECOM submitted a grant application for \$30,000 to perform water quality design at three separate locations within the town. The project cost breakdown is as follows: surveying, geotechnical analysis, engineering and permits.

DEPARTMENT REPORTS

- **Building Official** – The July Building Report was included in the Council meeting packet. At the end of July the Town issued 3 building permits and 5 business licenses. Building Official Schuchman noted that the Town's 5-year CRS recertification review is complete. The Town will keep its Class 8 rating with a 10% community discount on its flood insurance policy. September is FEMA National Preparedness Month. Everyone is urged to have an emergency plan in place.
- **Public Works** – The monthly report was included in the Council meeting packet. The new public works vehicle has been stenciled.
- **Beach Patrol** – The monthly report was included in the Council meeting packet. The Jr. Lifeguard Program is expanding and will need an additional guard next year to help with the program.
- **Police Department** – The monthly report was included in the Council meeting packet. The Nixel system is going to be reactivated. There is no charge for the system and it will allow you to sign on to any electronic devices. Information will be available on the website with a link to register at www.nixle.com. Also Smart 911 – Sussex Co website is also available at www.smart911.com.

TOWN COMMITTEE REPORTS

Charter and Ordinance – Council Member Weistling – For discussion only – Commercial Zone Regulations – The purpose for the discussion is to inform Council and the public about an ordinance change within the commercial zone requested by Mr. Buas, the owner of the Sands Hotel. He present at the May, June and August C&O meetings to discuss changes for his property. Council Member Weistling gave a brief history of the hotels in Fenwick Island. In 1986 we traced back to ordinance change that required 1 hotel room, per 1,000 square feet of lot area. This is our current ordinance. The current Sands Hotel has 39,000 square feet which would allow Mr. Buas 39 hotel rooms. The Fenwick Island has 62 rooms, 1 rooms for 365 square feet of the lot. The Seaside Inn has 61 rooms, 1 room for 640 square feet. Charter & Ordinance at our last meeting, six of the seven members were present, all of the members agreed to a possible change in the 550 – 700 square foot range, with an average of about 1 room, 600 square feet, but is still up for discussion.

Public Discussion:

- Alex Haley - Farmington St. – If you build it, will they come? – Mr. Buas ask the Chamber of Commerce if a new hotel is needed in Fenwick. Response was the town needs a quality hotel for its visitors.
- Greg Mahon – 1406 Bunting Ave. – Will this be an upper class hotel or low class? Mr. Buas stated he is looking for room to range on the higher side between \$200 - \$400, highest price hotel in town. Franchise level, Hampton Inn and Suite or something at the level.
- Lisa Benn – 1306 Bunting Ave. – Who will manage this hotel? Mr. Buas stated he would be manager.

- Ben Waide – W Dagsboro St. – The town has a commercial district. The current Sands Hotel looks bad and a change would be good for town.
 - Richard Benn – 1306 Bunting Ave. – Couldn't he just submit to the Board of Adjustment rather than changes the ordinance? Council Member Weistling stated that if it's consider zoning, we are making our ordinance a little bit more modern. We are setting a standard for rooms, say 60 -70 room range which is compatible with the other two hotels.

Discussion continued on the trade off, what is good for the town and the density increases by increasing the rooms in the hotel. Mr. Buas also discussed the revenue generated from the hotel versus a strip mall. Council Member Weistling stated that the discussions will continue at the next Charter and Ordinance meeting on September 1st at 9:30 p.m.

- **Beach Committee** – Plans will be starting up soon for the Fenwick Freeze.
- **Environmental Committee** – none
- **Technology Committee** – none
- **Business Development Committee** – No scheduled meeting for now until the fourth Thursday in September at 2:00 p.m.
- **Ad hoc Parks Committee** – Electrical panel in the park has been raised and updated.
- **Planning Commission** – none
- **Old Business** – none
- **New Business** – Council Member Lee – would like to discuss the committee participation application and clarification of the process. How are the committee members selected? Vice Mayor Mais responded that in the past the committee chair works on developing the committee along with the Mayor. The Mayor then approves the committee and then they are approved by Council. Council Member Weistling stated the committee chair selects the members of his particular committee and recommends those to the Mayor and that is how the committee is formed. The chair of the committees are appointed by the Mayor. Council Member Lee would like to make a motion to have each Council member appoint someone to each committee. Vice Mayor Mais stated he would rather the motion wait until the Mayor returns to make this motion since he is the one who handles the committees.

PUBLIC PARTICIPATION

- Pete Frederick – 1605 Bunting Ave. wanted to congratulate the new Council members but wanted to address how the election was handled. Wanted to address the registration process, how it was run, voters qualifications and the actual election procedure. Discussion continued as previously discussed covering how the election is run, qualifications to vote and property trusts. Vice Mayor Mais stated that these issues will be addressed with the Mayor upon his return. Town Manager Burke acknowledge that the Town staff and the community could have done a better job with the election.
- Mary Schrider-Fox – Town Solicitor – she was not present for the election but aware of the State Law that talks about who should be in the voting room. The same stature also states who can be in and out of the voting area. That would be the election officers and the inspector. The inspector can have anyone in the voting room that they feel necessary to assist with the election. The State Law does not preclude that a member of the Town Staff for being one of the people asked to help out with the

election. I'm not aware of any State Law that prohibits Town Staff from participating in the election. Charter changes will be reviewed with Town Manager on Trusts and election issues.

- Virginia Childers Davidson – Sea Shell City – She wanted to commend the Police Department for recovering the stolen merchandise from their rear parking lot.

UPCOMING MEETINGS AND EVENTS

Vice Mayor Mais announced the following upcoming meetings and events as follows:

a. September 1	9:30 a.m.	Charter and Ordinance Committee Meeting
b. September 7	Labor Day	Town Hall Closed
c. September 15	2:30 p.m.	Planning Commission Meeting
d. September 17	2:30 p.m.	Environmental Committee Meeting
e. September 19	9:00 a.m.-12 noon	2015 Delaware Coastal Cleanup
f. September 24	2:00 p.m.	Business Development Committee Meeting
g. September 25	3:30 p.m.	Regular Council Meeting

Motion to adjourn – Council Member Weistling

Second – Council Member Bunting

Discussion – none

Vote – (6-0)

Meeting adjourned at 5:45 p.m.

**Transcribed by Linda Poole, Town Clerk
for Council Member Diane Tingle, Secretary*